

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

THOMAS RAYMOND MENEI,

Petitioner,

v.

Civil Action No. 2:09-1516

DAVID BALLARD, Warden,
Mount Olive Correctional Complex,

Respondent.

MEMORANDUM OPINION AND ORDER

The court having received the Proposed Findings and Recommendation ("PF&R") of the United States Magistrate Judge filed on January 11, 2011, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B); and having reviewed the record in this proceeding; and there being no objections filed by either the respondent or the petitioner to the PF&R; and it appearing proper so to do, it is ORDERED that the findings and conclusions made in the PF&R be, and they hereby are, adopted by the court.

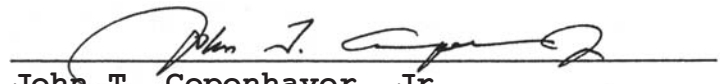
Based upon the foregoing, it is, accordingly, ORDERED as follows:

1. That petitioner's motion for stay and abeyance be, and it hereby is, denied;

2. That respondent's motion for summary judgment and to dismiss be, and it hereby is, granted; and
3. That this action be, and it hereby is, dismissed and stricken from the docket.

The Clerk is directed to forward copies of this written opinion and order to the petitioner, all counsel of record, and the magistrate judge.

DATED: Hgdtwct{"32."4233


John T. Copenhaver, Jr.
United States District Judge